80 Highland Ave.
Rochester, NY 14620
October 15, 1992

Gary Muldoon, City Council Member
89 Dorchester Road
Rochester, NY 14610

Re: Property Tax Exemption for Gay Alliance of Genesee Valley

Dear Council Member Muldoon:

During the day, I work closely with Bryan Hetherington. At his suggestion, I am writing to ask for your help in obtaining a property tax exemption for the Community Center owned by the Gay Alliance of Genesee Valley. Although the GAGV's lawsuit in the matter is scheduled to be argued in court on November 19, 1992, it would be far preferable to have the controversy resolved outside of court. To settle this case, though, the GAGV needs your help.

The background to the current situation is as follows. In March 1991, the City Assessor denied the GAGV's application for a property tax exemption. The GAGV appealed to the Board of Assessment Review, but that body affirmed the City Assessor's decision. That was no surprise since, at the hearing, the Board's chair told me that the Board just follows the advice of its attorney, who happens to be the City Assessor's attorney, who happens to be the same attorney who advised the City Assessor to deny the GAGV's application in the first place!

On behalf of the GAGV, I filed an Article 78 petition against the Board in late August 1991. Due to procedural issues, general procrastination on my part (I'm doing this case pro bono on my own time), and some investigatory work, I didn't file a Motion for Summary Judgment until yesterday. It was worth the delay, though, because I discovered that the major excuse the City Attorney gave the GAGV for denying its application -- that it has an "advocacy" purpose -- is illegitimate because the city has granted property tax exemptions to a number of organizations that also have advocacy purposes. For this reason, it is clear to me (and I alleged as much in our papers) that the city's denial was actually an act of discrimination in violation of the GAGV's free speech and freedom of association rights. I have enclosed a copy of the motion and the brief (but not the exhibits, which weigh 5 pounds!) for your information.

The problem is this. Justice Siracuse, who has been characterized by extremely knowledgeable members of the Greater Rochester Women Attorney's Association as extremely sexist and reactionary, has been assigned to the case. While I believe our case is very strong, and we have a good chance of winning on appeal even if we lose before Justice Siracuse, it is always better to settle a case than to take the chance that a court will have a bad day and dismiss our claims. This is particularly true in a case like ours that could be a major victory for gay rights and the laws of discrimination around the state, but it could also be a very bad setback if we lose.

So, to get back to the point, the GAGV could use your help a lot. When the application was initially denied, the GAGV tried to meet with the Mayor, but he declined the invitation. There is, however, a major difference between now and several months ago. In its motion, the GAGV has requested attorney's fees that the City will have to pay if we prevail. Attorney's fees could run up to several thousand dollars. When I spoke with the City's attorney (Susan Hauser) today, I hinted very strongly that the GAGV would consider waiving its rights to attorney's fees if the City changed its mind about the GAGV's property tax exemption application. I told her to call me if she wanted to discuss settlement possibilities at any time. The point is that unlike before, attorney's fees are now in the equation, and can be used as leverage to convince the City to settle.

I understand that the nature of politics often prevents you from getting involved in an important issue to allow you to save your chips for other issues. However, if there is anything you are willing and able to do to help out, the GAGV would greatly appreciate it. If you decide to get involved, I would appreciate it if you would consult with me so that I am not put into an awkward position with the City's attorney.

Besides writing to you, I have written to Tim Mains to ask him for his help as well. As another Council Member with some interest in the issue and some history with the GAGV, he might be in a good position to work with you to put some pressure on the City. I am hoping that you and Tim can talk about this matter, and work together to figure out the best way to handle this matter, if you both are willing to do so.

If you have any questions at all, or would just like to discuss this matter further, please feel free to call me at 256-0508 or day: 454-6500 (although I will be out of town next week), or Paul Scheib, President of the GAGV, at 244-8246 or home: 473-9948.

Thanks very much for consideration of this request. I look forward to hearing from you.

Very truly yours,

Ellen Yacknin
Plaintiff's Attorney

c: Paul Scheib
GAGV
179 Atlantic Ave.
Rochester, NY 14607

80 Highland Ave.
Rochester, NY 14620
October 15, 1992

Tim Mains, City Council Member
413 Broadway
Rochester, NY 14607

Re: Property Tax Exemption for Gay Alliance of Genesee Valley

Dear Tim:

I am writing to ask for your help in obtaining a property tax exemption for the Community Center owned by the Gay Alliance of Genesee Valley. Although the GAGV's lawsuit in this matter is scheduled to be argued in court on November 19, 1992, it would be far preferable to have the controversy resolved without going to court. To settle this case, though, the GAGV needs your help.

As you may recall when we talked several months ago, the City Assessor denied the GAGV's application for a property tax exemption in March 1991. The GAGV appealed to the Board of Assessment Review, but that body affirmed the City Assessor's decision. That was no surprise since, at the hearing, the Board's chair told me that the Board just follows the advice of its attorney, who happens to be the City Assessor's attorney, who happens to be the same attorney who advised the City Assessor to deny the GAGV's application in the first place!

On behalf of the GAGV, I filed an Article 78 petition against the Board in late August 1991. Due to procedural issues, general procrastination on my part (I'm doing this case pro bono on my own time), and some investigatory work, I didn't file a Motion for Summary Judgment until yesterday. It was worth the delay, though, because I discovered that the major excuse the City Attorney gave the GAGV for denying its application -- that it has an "advocacy" purpose -- is illegitimate because the city has granted property tax exemptions to a number of organizations that also have advocacy purposes. For this reason, it is clear to me (and I alleged as much in our papers) that the city's denial was actually an act of discrimination in violation of the GAGV's free speech and freedom of association rights. I have enclosed a copy of the motion and the brief (but not the exhibits, which weigh 5 pounds!) for your information.

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So, to get back to the point, the GAGV could use your help a lot. As you may recall, the GAGV's attempts to meet with the Mayor when the application was denied were rebuffed. In addition, when we talked a few months ago, you told me that you thought there was not very much you could do at that point because your relationship with the Mayor was strained. Hopefully, things have cooled off since then to the point where you might be able to approach people in the Mayor's office if you decide to step in at this point.

There is another difference between now and several months ago. In its pending motion, the GAGV has requested attorney's fees that the City will have to pay if we prevail. Attorney's fees could run up to several thousand dollars. When I spoke with the City's attorney (Susan Hauser) today, I hinted very strongly that the GAGV would consider waiving its rights to attorney's fees if the City changed its mind about the GAGV's property tax exemption application. I told her to call me if she wanted to discuss settlement possibilities at any time. The point is that unlike before, attorney's fees are now in the equation, and can be used as leverage to convince the City to settle.

Tim, I understand that the nature of politics often prevents you from getting involved in an important issue to allow you to save your chips for other issues. However, if there is anything you are willing and able to do to help out, the GAGV would greatly appreciate it. If you decide to get involved, I would appreciate it if you would consult with me so that I am not put into an awkward position with the City's attorney.

Besides writing to you, I have written to Gary Muldoon to ask him for his help as well. Because he is a lawyer, he might be in a "legal authority" position to put some pressure on the City. I am hoping that you and Gary can talk about this matter and work together to figure out the best way to handle this matter, if you both are willing to do so.

If you have any questions at all, or would just like to discuss this matter further, please feel free to call me at 256-0508 or day: 454-6500 (although I will be out of town next week), or Paul Scheib, President of the GAGV, at 244-8246 or home: 473-9948.

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